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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/020,739

12/18/2001

Michael D. Miller

07487

9714

7590 08/08/2007
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EXAMINER

BLAKE, CAROLYN T

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/020,739	Applicant(s) MILLER, MICHAEL D.	
	Examiner Carolyn T. Blake	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 30, 2007 has been entered.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 36', 45, 66'. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "14" has been used to designate both the fork head and a typical fork handle. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "36" has been used to designate both a blade edge and a tine tip. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:
- Page 19, line 11: The reference number for the thumb should be changed from "31" to - 61- -.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 19-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 19, the limitation requiring "the flattened surfaces orientated generally parallel to each other and are orientated at a right angle in relation to the width of the handle portion" constitutes new matter because the parallel relationship and right angle were not described in the original disclosure or shown in the original drawings.

Regarding claim 20, the limitation requiring "an angle of curvature that is greater than 30 degrees and less than 90 degrees" constitutes new matter because this range was not described in the original disclosure or shown in the original drawings.

Regarding claim 21, the limitation requiring "an angle of curvature that is greater than 32 degrees and less than 90 degrees" constitutes new matter because this range was not described in the original disclosure or shown in the original drawings.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gagnon et al (D 387,956) in view of Centa (D 203,072).

Gagnon et al disclose an improved universal fork substantially as claimed, including a head portion including two inner fork tines and two outer fork tines, the inner fork tines having a generally elongated shape suitable for a fork tine, the outer fork tines having curved outer edges when viewed from a top view perspective (see FIG 2), the outer edges of the outer fork tines including beveled outside edges (see FIG 4) suitable for cutting food, the head and the tines also having a curved shaped when viewed from a side view perspective (see FIG 4), the outside tines having a generally symmetrical configuration suitable for use in cutting by either a left handed or right handed person. Gagnon et al fail to disclose the handle portion or finger platform portion as claimed.

Centa discloses a fork comprising a handle portion including a shaft portion and a grip portion, the grip portion disposed opposite the finger platform portion and the shaft portion connecting between the finger platform portion and the grip portion, the

grip portion having an enlarged end opposite the handle portion for providing a counter weight to the head portion of the fork, the enlarged end of the grip portion having an enlarged width (see FIG 3) and an enlarged depth (see FIG 2) for fitting and pressing against the palm of the hand of a person; and the finger platform portion disposed between the head of the fork and the handle portion having two generally symmetrical flattened surfaces (see FIGS 1, 2) for receiving finger pressure, the flattened surfaces oriented generally parallel to each other and are oriented at a right angle in relation to the width of the handle portion to present generally widened flat surfaces when viewed from a side view perspective, the two generally symmetrical and opposite finger platform surfaces for receiving pressure from the finger of a right handed or left handed person, one of the two platform surfaces thereby allowing the application of cutting pressure upon the curved outer edges of the outer tines for cutting of a food item by either a left handed or right handed person.

The handle of Centa, including the finger platform portion, would be more ergonomic than the handle of Gagnon et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an alternative handle structure to the Gagnon et al fork, such as the one disclosed by Centa, in order to provide a more ergonomic grip for the user.

10. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gagnon et al (D 387,956) in view of Centa (D 203,072) and Green (3,121,951).

The modified Gagnon et al device teaches a fork as claimed. To the extent it can be argued it does not teach the angle of curvature claimed, Green is cited. The Green

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device teaches a variety of different forks with a variety of different angles of curvature. The increased angle of curvature allows the fork to have spoon-like qualities. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to change the angle of curvature of the modified Gagnon et al device in order to scoop food products in a spoon-like matter.

Response to Arguments

11. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Thursday, 7:00 AM to 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CB

July 26, 2007

BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER